

CLARIFYING THE IMMIGRATION STATUS OF CERTAIN ALIENS

FEBRUARY 19 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 728]

The Committee on the Judiciary, to which was referred the bill (S. 728) to amend section 174.1, chapter I, title 8, of the Code of Federal Regulations, relating to control pursuant to the Subversive Activities Control Act of 1950, of persons entering the United States, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

AMENDMENTS

1. Strike all after the enacting clause and insert in lieu thereof the following:

That the Attorney General is hereby authorized and directed to provide by regulations that the terms "members of" and "affiliated with" where used in the Act of October 16, 1918, as amended (except where, in context, such terms relate to communism), shall include only membership or affiliation which is or was voluntary, and shall not include membership or affiliation which is or was solely (a) when under fourteen years of age, (b) by operation of law, or (c) for purposes of obtaining employment, food rations, or other essentials of living, and where necessary for such purposes.

SEC. 2. The Attorney General is authorized in his discretion to record the entry of any alien to have been for permanent residence in any case where the alien heretofore, when applying for admission for permanent residence, was temporarily admitted pursuant to the ninth proviso of section 3 of the Immigration Act of February 5, 1917, as amended, and whose inadmissibility for permanent residence was determined to be solely by reason of membership or affiliation (other than membership or affiliation related to communism) under subsection 2 of section 1 of the Act of October 16, 1918, as amended.

2. Amend the title so as to read:

A bill to clarify the immigration status of certain aliens.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to provide for clarification, through regulations, of the interpretation of certain terms used in the act of October 16, 1918, as amended, relating to exclusion and deportation of subversive classes of aliens; and to vest in the Attorney General the authority to amend the records of entry of certain aliens who, since September 23, 1950, and prior to the enactment of this bill, were admitted temporarily although they were applying for permanent residence in this country with appropriate documentation as immigrants.

STATEMENT OF FACTS

The act of October 16, 1918, as amended by the act of June 28, 1940, provided for the exclusion from the United States of aliens who shall be or shall have been members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches certain subversive doctrines.

Section 22 of the Internal Security Act of 1950 reenacted the identical language of the act of October 16, 1918, but added language which proscribed in the excludable classes aliens who are or were members of or affiliated with the Communist Party, the Communist Political Association and other totalitarian parties.

The terms "members of" and "affiliated with" were reenacted identically as they appeared prior to the enactment of section 22 of the Internal Security Act of 1950.

The attention of the committee has been directed to the increasing number of cases in which visas have been withheld or admission into this country denied to aliens on the basis of interpretations of the terms "members of" and "affiliated with" which are contrary to the established body of judicial and administrative interpretations of these terms. Many of these cases involve spouses of servicemen who have been denied visas or admission into the United States on the basis of an involuntary membership or affiliation in various totalitarian organizations or subsidiaries thereof, such as a membership or affiliation which occurred solely at tender years, by operation of law or for purposes of obtaining employment, food rations, and the like. In still other cases aliens have been denied visas or admission solely because they were in the German or Italian Armies.

The bill (S. 728), as amended, makes clear that it was not the intent of the Congress in enacting section 22 of the Internal Security Act of 1950 to nullify or to disturb the body of judicial and administrative interpretations of the terms "members of" and "affiliated with" and accordingly the bill authorizes and directs the Attorney General to provide by regulations that the terms "members of" and "affiliated with" where used in the act of October 16, 1918, as amended (except where, in context, such terms relate to communism), shall include only membership or affiliation which is or was voluntary, and shall not include membership or affiliation which is or was solely (a) when under 14 years of age, (b) by operation of law, or (c) for purposes of obtaining employment, food rations, or other essentials of living, and where necessary for such purposes.

It is the information of the committee that since September 23, 1950, the date of enactment of section 22 of the Internal Security Act of 1950, a number of aliens in possession of documents as immigrants, when applying for admission for permanent residence were determined to be inadmissible by reason of membership or affiliation (other than membership or affiliation related to communism) under the act of October 16, 1918, as amended, but were temporarily admitted pursuant to the ninth proviso of section 3 of the Immigration Act of February 5, 1917, as amended. Said ninth proviso provides for the admission and return of otherwise inadmissible aliens applying for temporary admission.

Although it is the view of the committee that said ninth proviso does not authorize the temporary admission of aliens applying for admission for permanent residence, section 2 of the bill (S. 728), as amended, authorizes the Attorney General in his discretion to record the entry of any such alien heretofore admitted under said ninth proviso to have been for permanent residence.

The bill (S. 728), as amended, incorporates the identical language of the draft which is set forth in the below quoted letters dated January 30, 1951, and February 1, 1951, respectively:

JANUARY 30, 1951.

Hon. J. HOWARD McGRATH,
*Attorney General of the United States,
Department of Justice, Washington 25, D. C.*

MY DEAR MR. ATTORNEY GENERAL: Following up my telephone conversation with you this afternoon, and along the lines which we discussed, I have prepared an amended version of my bill S. 728, which accomplishes the two purposes of having the Attorney General write the proposed regulation, rather than having it written by Congress, and providing a means for adjusting the status of aliens now in this country, who would have been admissible for permanent residence, at the time they entered the country, under such a construction of the law as this proposed regulation would provide.

My new version of the bill is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General is hereby authorized and directed to provide by regulations that the terms 'members of' and 'affiliated with' where used in the Act of October 16, 1918, as amended (except where, in context, such terms relate to communism), shall include only membership or affiliation which is or was voluntary, and shall not include membership or affiliation which is or was solely (a) when under fourteen years of age, (b) by operation of law, or (c) for purposes of obtaining employment, food rations, or other essentials of living, and where necessary for such purposes.

"SEC. 2. The Attorney General is authorized in his discretion to record the entry of any alien to have been for permanent residence in any case where the alien heretofore, when applying for admission for permanent residence, was temporarily admitted pursuant to the ninth proviso of section 3 of the Immigration Act of February 5, 1917, as amended, and whose inadmissibility for permanent residence was determined to be solely by reason of membership or affiliation (other than membership or affiliation related to communism) under subsection 2 of section 1 of the Act of October 16, 1918, as amended."

I am prepared to recommend that my bill S. 728 be amended in committee so as to conform to the above text; and I should be grateful if you would let me know, as speedily as may be convenient, your views with respect to this proposal.

Kindest personal regards.

Sincerely,

PAT McCARRAN, *Chairman.*

FEBRUARY 1, 1951.

HON. PAT MCCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: With further reference to our discussion of January 30, 1951, and in response to your letter of the same date, this is to advise that I am in complete agreement with your amended version of your bill S. 728 which reads as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General is hereby authorized and directed to provide by regulations that the terms 'members of' and 'affiliated with' where used in the Act of October 16, 1918, as amended (except where, in context, such terms relate to communism), shall include only membership or affiliation which is or was voluntary, and shall not include membership or affiliation which is or was solely (a) when under fourteen years of age, (b) by operation of law, or (c) for purposes of obtaining employment, food rations, or other essentials of living, and where necessary for such purposes.

"SEC. 2. The Attorney General is authorized in his discretion to record the entry of any alien to have been for permanent residence in any case where the alien heretofore, when applying for admission for permanent residence, was temporarily admitted pursuant to the ninth proviso of section 3 of the Immigration Act of February 5, 1917, as amended, and whose inadmissibility for permanent residence was determined to be solely by reason of membership or affiliation (other than membership or affiliation related to communism) under subsection 2 of section 1 of the Act of October 16, 1918, as amended."

It appears that this measure will accomplish our mutual objectives. Your interest and kind cooperation in this matter are greatly appreciated.

With warm personal regards.

Sincerely,

J. HOWARD McGRATH, *Attorney General.*

The committee, after consideration of all the facts, is of the opinion that the bill (S. 728), as amended, should be enacted.

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